

House Bill 3325

Sponsored by COMMITTEE ON ENERGY AND ENVIRONMENT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Clarifies state agency reference.

A BILL FOR AN ACT

Relating to energy conservation project certification; amending ORS 315.331.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 315.331 is amended to read:

315.331. (1) A credit is allowed against the taxes otherwise due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318, for an energy conservation project that is certified under ORS 469B.270 to 469B.306. The credit is allowed as follows:

(a) Except as provided in paragraph (b) of this subsection, the credit allowed in each of the first two tax years in which the credit is claimed shall be 10 percent of the certified cost of the facility, but may not exceed the tax liability of the taxpayer. The credit allowed in each of the succeeding three years shall be five percent of the certified cost, but may not exceed the tax liability of the taxpayer.

(b) If the certified cost of the facility does not exceed \$20,000, the total amount of the credit allowable under subsection (3) of this section may be claimed in the first tax year for which the credit may be claimed, but may not exceed the tax liability of the taxpayer.

(2) In order for a tax credit to be allowable under this section:

(a) The project must be located in Oregon.

(b) The project must have received final certification from the Director of the State Department of Energy under ORS 469B.270 to 469B.306.

(c) If the project is a research and development project, it must receive, prior to certification under ORS 469B.288, a recommendation from a qualified third party selected by the director.

(d) If the project is new construction or a total building retrofit, then the project must achieve, at a minimum, the energy efficiency standards required for:

(A) LEED Platinum certification;

(B) A four globes rating from the Green Globes program;

(C) A nationally or regionally recognized and appropriate sustainable building program whose performance standards are equivalent to the standards required for LEED Platinum certification or a four globes rating from the Green Globes program, as determined by the **State Department of Energy**; or

(D) Verification that the construction conformed to the standards of the Reach Code adopted pursuant to ORS 455.500.

(3) The total amount of credit allowable to an eligible taxpayer under this section may not ex-

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 ceed 35 percent of the certified cost of the project.

2 (4)(a) Upon any sale, termination of the lease or contract, exchange or other disposition of the
 3 project, notice thereof shall be given to the director, who shall revoke the certificate covering the
 4 project as of the date of such disposition.

5 (b) A new owner, or, upon re-leasing of the project, a new lessee, may apply for a new certificate
 6 under ORS 469B.291. The new lessee or owner must meet the requirements of ORS 469B.270 to
 7 469B.306 and may claim a tax credit under this section only if all moneys owed by the new owner
 8 or lessee to the State of Oregon have been paid, if the project continues to operate and if all con-
 9 ditions in the final certification are met. The tax credit available to the new owner shall be limited
 10 to the amount of credit not claimed by the former owner or, for a new lessee, the amount of credit
 11 not claimed by the lessee under all previous leases. The State Department of Energy may waive the
 12 requirement that a new owner or lessee apply for a new certificate under ORS 469B.291 if the re-
 13 maining credit is less than \$20,000.

14 (c) The department may not revoke the certificate covering a project under paragraph (a) of this
 15 subsection if the tax credit associated with the project has been transferred to a taxpayer who is
 16 an eligible applicant under ORS 469B.285.

17 (5) The tax credit allowed under this section for any one tax year may not exceed the tax li-
 18 ability of the taxpayer.

19 (6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
 20 particular year may be carried forward and offset against the taxpayer's tax liability for the next
 21 succeeding tax year. Any credit remaining unused in that next succeeding tax year may be carried
 22 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
 23 succeeding tax year may be carried forward and used in the third succeeding tax year, and likewise,
 24 any credit not used in that third succeeding tax year may be carried forward and used in the fourth
 25 succeeding tax year, and likewise, any credit not used in that fourth succeeding tax year may be
 26 carried forward and used in the fifth succeeding tax year, but may not be carried forward for any
 27 tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years
 28 specified in subsection (1) of this section only as provided in this subsection.

29 (7) The credit allowed under this section is not in lieu of any depreciation or amortization de-
 30 duction for the project to which the taxpayer otherwise may be entitled for purposes of ORS chapter
 31 316, 317 or 318 for such year.

32 (8) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax
 33 credits allowed under this section.

34 (9) The definitions in ORS 469B.270 apply to this section.

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